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Attorneys for Plaintiff and Counterclaim Defendants

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF WYOMING
 CASPER DIVISION

THE TRIAL LAWYERS COLLEGE,
 a nonprofit corporation

Plaintiff,

v.

GERRY SPENCES TRIAL
 LAWYERS COLLEGE AT
 THUNDERHEAD RANCH, a
 nonprofit corporation, *et. al.*,

Defendants.

CIVIL ACTION NO. 1:20-cv-0080

JUDGE CARSON

MAGISTRATE JUDGE CARMAN

MOTION TO DISMISS COUNTERCLAIMS AND THIRD PARTY CLAIMS

PLAINTIFF The Trial Lawyers College, (“Plaintiff” or “TLC”), and Third Party Defendants John Sloan, Milton Grimes, Maren Chaloupka, James R. Clary, Jr., Dana Cole, and Anne Valentine (the “Board Members”) respectfully request that, pursuant to Rules 12(b)(1), 12(b)(2), and 12(b)(6) of the Federal Rules of Civil Procedure, this Court dismiss the Counterclaims and Third Party Claims asserted against them by Defendants Gerry Spence and Rex Parris (“Defendants”). *See* R. Doc. 263. As more fully set forth in the Memorandum in Support, Defendants have failed to establish a *prima facie* case for exercise of personal jurisdiction over the Board Members, as they have not pled any specific acts of the non-resident Board Members directed at the forum state. Both the fiduciary shield doctrine and the no-imputed-contacts rule bar use of any acts the individual board members performed on behalf of TLC in the forum state to establish jurisdictional contacts. Accordingly, the third party claims should be dismissed pursuant to Rule 12(b)(2).

Additionally, Spence’s claims in Counts 1-3 arising out of TLC and the Board Members’ alleged use of his name and likeness are not cognizable under the Lanham Act or Wyoming state law and should be dismissed pursuant to Rule 12(b)(6). Further, Defendants’ attempt in Count 4 to reframe the board dispute between them and the Board Members as a Lanham Act claim—a dispute already decided against Defendants by the Wyoming state court—fails legally and likewise should be dismissed by the Court under Rule 12(b)(6). Finally, this Court lacks subject matter jurisdiction to hear Spence and Parris’s Counterclaims because they have entirely failed to allege how they have suffered any individual injury or harm, and thus, they lack standing to assert their claims pursuant to Rule 12(b)(1). In light of the Court’s lack of subject matter and personal jurisdiction, as well as Defendants’ failure to adequately plead their various purported causes of

action, the Court should dismiss all Counterclaims and Third Party Claims with prejudice.

Respectfully submitted,

THE TRIAL LAWYERS COLLEGE

/s/ Christopher K. Ralston

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By: /s/ Patrick J. Murphy

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VALENTINE**

CERTIFICATE OF SERVICE

I hereby certify that true and correct copy of the foregoing document has been served electronically by transmission to an electronic filing service provider for service through the Court's CM/ECF system to all counsel of record this 7th day of December, 2021.

/s/ Christopher K. Ralston
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